

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

BLACKROCK BALANCED CAPITAL  
PORTFOLIO (FI), et al.,

Plaintiffs,

- against -

DEUTSCHE BANK NATIONAL TRUST  
COMPANY, et al.,

Defendants.

No. 14-cv-9367 (JMF) (SN)

**ORDER**

**SARAH NETBURN, United States Magistrate Judge:**

WHEREAS, on July 23, 2018, this Court entered an order with regard to the potential waiver of claims of privilege as to certain documents listed on the privilege logs produced herein by defendants Deutsche Bank National Trust Company and Deutsche Bank Trust Company Americas, as trustees (the “Trustees”) finding that “Deutsche Bank has waived its privilege with respect to all documents listed on its privilege log (except as otherwise ruled in this Order) unless it can make a particularized showing as to individual documents that it believes are (1) adequately described on its log and, (2) in fact, privileged” (the “July 23 Order,” ECF No. 496);

WHEREAS, on July 26, 2018, the Trustees informed the Court that they intended to object to the July 23 Order to Judge Furman and requested that this Court stay the July 23 Order pending such objection (ECF No. 499);

WHEREAS, on July 27, 2018, this Court granted the Trustees’ request for a stay of the July 23 Order pending an objection to Judge Furman (ECF No. 505);

WHEREAS, on August 1, 2018, Judge Furman set a briefing schedule for that objection (ECF No. 507);

WHEREAS, on August 9, 2018, this Court stayed the briefing schedule for that objection (ECF No. 509);

WHEREAS, the parties have informed this Court that they have reached a settlement of this action; and

WHEREAS, consistent with the orders and facts described above, the Trustees have not had the opportunity to make a particularized showing of privilege as to any documents that were the subject of the July 23 Order or to object to that order to Judge Furman;

IT IS HEREBY ORDERED that because the July 23 Order was subject to an objection to Judge Furman pursuant to F.R.C.P. Rule 72 and the Trustees did not have the opportunity to make a particularized showing of privilege, there has not been a waiver of privilege as to any documents on the Trustees' privilege logs that were the subject of the July 23 Order.

**SO ORDERED:**



---

SARAH NETBURN  
United States Magistrate Judge

DATED: December 5, 2018  
New York, New York